

The Role of International Trade Agreements in Promoting Intellectual Property Protection: A Case Study of the TRIPS Agreement



Waqas Younus	LLM Scholar, Intellectual Property Law, Zhongnan University of Economics and Law, Wuhan, P.R China, 430073 waqasyounus11056@gmail.com
Arshad Nawaz Khan	Assistant Professor School of Law Quaid I Azam University Islamabad. ankhan@qau.edu.pk
Mahar Waqar Fazal	Ph.D. scholar, International Law, Zhongnan university of economic and law, Wuhan China P.R China, 430073 adv.maharwaqarfazal@gmail.com

Abstract: *This research investigates the role of international trade agreements, with a specific emphasis on the TRIPS Agreement, in advancing intellectual property protection. In the context of globalization and rapid technological progress, safeguarding intellectual property (IP) becomes essential for economic development. Operating within the World Trade Organization, the TRIPS Agreement acts as a foundational structure for standardizing global IP regulations and fostering international trade. Through qualitative analysis, the study examines the implementation of the TRIPS Agreement and evaluates its effectiveness in promoting IP protection, assessing impacts on trade, investment, technology transfer, and economic development. The research is structured into three main sections: an introduction to global IP agreements, an exploration of the theoretical foundation and criticisms of the TRIPS Agreement, and a focus on the legal framework governing intellectual property.*

Keywords: International trade agreements, IP protection, TRIPS agreement, Harmonizing IP standards

Introduction

In present era of interconnectivity and globalization, international trade assumes a crucial role in propelling economic expansion, nurturing innovation, and enabling the seamless exchange of goods and services across nations. Within this context, the Trade Related Aspects of Intellectual Property Rights Agreement stands a pivotal international trade agreement that establishes minimal standards governing the accessibility, extent, and utilization of seven distinct forms of intellectual property (IP). It incorporates fundamental trade principles, including national treatment and most-favored-nation treatment, to address IP-related matters

(Maskus, 2000). The primary objectives of the agreement are to streamline the trade of knowledge and creative works, address trade disputes related to intellectual property (IP), and enable member nations to fulfill their domestic policy goals. Recognized as the most extensive and influential global treaty concerning IPRs, the TRIPS Agreement integrates intellectual property regulations within the framework of the World Trade Organization (WTO). Consequently, it mandates that all member of the WTO adhere to least touchstone protection and enforcement for intellectual property (Correa, 2007).

The interplay between international trade

agreements and IP protection has garnered significant attention in recent years. Scholars, policymakers, and stakeholders have recognized the complex and dynamic relationship between these two realms (Dutfield & Suthersanen, 2013). On one hand, international trade agreements, including the TRIPS Agreement, aim to promote and regulate global trade by providing a framework for fair and equitable treatment of IP. On the other hand, effective IP protection is crucial for incentivizing innovation, attracting Foreign Direct Investment (FDI), facilitating technology convey, and ensuring the smooth functioning of international trade (Blakeney, 2008).

This study aims to explore and analyze the role of international trade agreements, with a specific focus on the TRIPS Agreement, in promoting IP protection. By delving into the objectives, provisions, and historical development of the TRIPS Agreement, this seek to gain a comprehensive understanding of its impact on IP protection and its implications for international trade.

The acronym TRIPS stands for "Trade-Related Aspects of Intellectual Property Rights". The crucial aspect of this agreement is its focus on the interconnection between trade and IPRs. By incorporating intellectual property into the global trade system, it effectively globalizes the standards and regulations pertaining to intellectual property rights.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), bargained through the Uruguay Round started from 1986 and ended on 1994, marked a significant milestone by introducing intellectual property regulations into the framework of the multilateral trading system. On 1st January, 1995, the TRIPS agreement came into effect, imposing criminal penalties for any breach of its IP standards. These standards essentially treat knowledge as private property, affording it the same level of criminal protection as tangible assets like cars. Moreover, TRIPS-PLUS agreements exert even greater pressure to expand the empire of intellectual property rights, as highlighted by Peter Drahos (2017) who states, "the role of free trade agreements is to

expand the empire of intellectual properties".

From the very beginning of negotiations, there was controversy surrounding the General Agreement on Tariffs and Trade's (GATT) formation of new minimal requirements for the protection and execution of intellectual property rights. The chairman of the TRIPS negotiating Group, Lars Anell, acknowledged that there was a great deal of uncertainty regarding the scope of the Uruguay Round as the date of the Ministerial Conference to initiate it was decided. Daniel Gervais also noted the fact that the Punta del Este Declaration retrospectively demonstrates the difficulties in persuading GATT contracting parties to adopt this novel subject matter, despite its broad scope and potential impact. He also pointed out that the declaration essentially describes what a prospective agreement should not include or rewords it to fit inside the parameters of specific GATT terminology (Abdulqawi A. 2008).

The acknowledgment of the crucial role of intellectual property (IP) protection in international trade resulted in the formation of TRIPS agreement. Enacted in 1995 under the World Trade Organization (WTO), it signifies a key milestone in the worldwide regulation of intellectual property. Its primary objective is to ensure fairness among trading partners by creating a level playing field. By providing a robust framework, the agreement aims to foster innovation and facilitate the transfer of technology.

The TRIPS Agreement has been a topic of extensive debate and has faced several criticisms. One major concern revolves around its potential adverse effects on public health and access to medicines. Moreover, there are concerns about the aptitude of developing countries to exercise flexibilities within the agreement and protect their developmental requirements. Achieving a balance between intellectual property (IP) protection and broader societal objectives, especially in domains such as public health, agriculture, and cultural expression, presents a significant challenge within the TRIPS Agreement framework.

Research Objectives:

The prime objectives of this dissertation are:

1. To assess the role of TRIPS, in promoting IP protection. This involves examining the objectives, provisions, and historical development of the TRIPS Agreement to understand its intended impact on IP rights and its implications for international trade.
2. To analyze the effectiveness of the TRIPS Agreement in promoting IP protection. This includes evaluating the implementation of the agreement and assessing its impact on various aspects such as trade flows, foreign direct investment (FDI), technology transfer, and economic development. By examining these indicators, this study aims to gauge the extent to which the TRIPS Agreement has successfully achieved its intended goals.

Literature Review

The goal of this literature study is to evaluate the TRIPS Agreement's contribution to the advancement of intellectual property protection and its consequences for various stakeholders. The review's objectives are to assess the agreement's efficacy, pinpoint its advantages and disadvantages, and investigate the issues that have arisen since it was put into action.

The TRIPS Agreement was the first international intellectual property (IP) agreement with a strong enforcement mechanism (Fink & Miller, 2005). It was created in 1994 and went into effect in 1995 (Rod Falvey, 2004). It required all World Trade Organization (WTO) members to abide by particular minimum intellectual property standards (TRIPS, *supra* note 3). Among the noteworthy clauses were the twenty-year patents applicable to all technology sectors and the fifty-year copyrights for most materials protected by copyright (O'Connor, S. M. 2019). The creation of a universal baseline was necessitated by the urgent problem of increasing piracy (Anderson,

& Razavi, 2009). This allowed investors and innovators to modify competitive advantages while maintaining the customary guarantees of free trade. Additionally, TRIPS included provisions for protecting novel plant varieties, which in turn shielded investors engaged in the breeding of improved plant varieties possessing superior traits like increased disease resistance (Daley, 2008).

There are benefits and drawbacks to the multilateral TRIPS framework. One advantage of multilateral negotiation is that, in contrast to multiple bilateral negotiations, it can help control transaction costs (Otten, 2015). This is so that different conversations can be combined into a single forum through multilateral negotiations. By removing the need for multiple flights, hotel stays, and other unnecessary expenditures related to providing trade negotiators abroad for multiple one-on-one (bilateral) negotiations, this consolidation saves countries money.

The drawback is that more parties at the same negotiating table raise the possibility of softening and diluting challenges that would not otherwise be hotly contested and require resolution. Essentially, as with other international intellectual property agreements, TRIPS's weakness is that it leaves a lot of space for ad hoc, self-interested maneuvering (Drahos, & Braithwaite 2017).

Multilateralism is essentially about finding the lowest common factor for the majority of states, as the professor Ruth Okediji (professor at Harvard Law School) noted. The United States and other developed nations were forced to indirectly support the participation of less powerful developing nations in this process due to bloc negotiations, which may have removed the U.S.'s strategic motivation to negotiate intellectual property rights (Ruth, 2003).

Harmonization of Intellectual Property Standards: The TRIPS Agreement lays out baseline requirements for the protection of intellectual property, enabling a more consistent and uniform approach between nations. This harmonization stimulates international trade and investment while promoting stability and

predictability for enterprises (Barizah, 2017).

Protection of Innovation and Inventions: The TRIPS Agreement plays a crucial role in promoting innovation and providing incentives for creators and inventors through legal protection of intellectual property. By safeguarding these forms of intellectual property, the agreement establishes an environment conducive to research and development, thereby encouraging the creation of new products, technology advancements, and artistic works. This protection serves as a catalyst for fostering innovation by ensuring that the efforts and investments of creators and inventors are recognized and rewarded (Manap. et.al, 2016).

Discussion

The TRIPS Agreement holds a significant part in the global protection of intellectual property rights, and numerous research studies have evaluated its importance. However, the agreement has also faced criticism. According to Peter Drahos, the TRIPS Agreement was part of a broader agenda laid out by the OECD in the 1960s and early 1970s, aimed at liberalizing the world economy and allowing capital to move freely across borders. To achieve this, many regulations had to be eliminated, which had implications for national sovereignty. For example, regulations on patent prices, which some countries implemented, were opposed by pharmaceutical industries seeking unregulated patent prices, leading to increased medicine costs.

The TRIPS Agreement is considered a significant agreement of the 20th century, as it establishes a global platform for multinational corporations. Every country joining the World Trade Organization (WTO) is required to comply with TRIPS. However, the case study of TRIPS highlights how trade negotiations can neglect the interests of citizens, conducted in secrecy without consumer involvement. Moreover, the agreement is often drafted by corporations themselves, utilizing their technical expertise and guidance from patent attorneys and IP lawyers. This process goes beyond simple lobbying and represents a sophisticated form of

global networking (Drahos, 2013).

It is also suggested by the Professor Hamilton that the Agreement Forces presuppositions about human worth, exertion, and reward that contain political, humanistic, and lawful implications. In point of fact, the Agreement's emphasis on individual human creative achievement has the potential to further advance Western-based human rights in the world. TRIPS may in fact foster anti-authoritarian revolution by spreading Western ideas to other countries. the Outings Understanding tries to lay out an unrestricted economy of licensed innovation merchandise. The TRIPS Agreement is already out of date because it fails to account for the fact that a noteworthy portion of the transnational intellectual property marketplace will soon be online. By establishing such a system, the Agreement could serve to standardize global politics. Publishers may unfairly use this critical omission to restrict the free flow of ideas in order to profit from their copyrights. The online era faces the difficult challenge of creating a free use zone that is comparable to the physical universe. The people's freedom from tyranny may be jeopardized by limiting access to information and ideas through a global copyright law that is too generous to publishers. Copyright should not be abandoned, but it must be altered to accommodate an online universe (Hamilton, 1996).

TRIPS promotes technological advancement and economic growth by protecting the invention and effort of different intellectuals. The main role of TRIPS is harmonization of IP standards, market access and non-discrimination, technology transfer and IP disputes settlement. Anyone who invent something or add something to the existing knowledge must be rewarded for example patent is protected for only 20 years, afterward it can be used publicly, it is not a big deal. TRIPS has not been without criticism, as academics, decision-makers, and civil society have expressed a variety of worries about its potential effects. One of the most common criticisms centers on the availability of cheap medications. The strict TRIPS patent protection standards

may make it difficult to get life-saving pharmaceuticals, resulting in high costs and scarce supply. Concerns have been expressed regarding how this may affect public health, particularly in areas where epidemics and diseases like HIV/AIDS are a problem.

Critics contend that the TRIPS Agreement widens the gap between industrialized and developing nations in terms of technology. Due to expensive licensing costs and other constraints, the agreement's obligations for intellectual property protection may make it more difficult for poor countries to embrace and adapt cutting-edge technologies. There have been questions about the power dynamics and discrepancies in the TRIPS Agreement negotiations. Critics contend that accords that largely promote the interests of industrialized countries and multinational businesses were reached because poor countries may not have had an equal voice or bargaining power (May, 2008).

Theoretical Framework for TRIPS

The theoretical framework that guides the research on the connection between intellectual property (IP) protection and international trade agreements. The main theories, notions, and models that are crucial to comprehending this intricate relationship. These ideas serve as a framework for examining how international trade and IP protection interact, illuminating the relevant economic, innovative, and legal factors. Theoretical framework is key bone of any legal system, as to our topic is concern theories of intellectual property, economics and legal factors are more important for the protection of Intellectual property.

General theories of Intellectual Property

The term "intellectual property" encompasses a wide range of legal principles that govern the utilization of various ideas and symbols. Copyright law provides protection for diverse forms of creative expression, as well as tales, films, music compositions, and software package (Netanel, N. W. 2018). Patent law grants protection for creations and certain types of discoveries (Rizkia, & Fardiansyah 2022). Trademark law safeguards words and codes that

serve as indicators of origin for consumers, distinguishing goods and services provided by specific individuals or companies (Deorsola, et.al, 2017). Trade secret law protects valuable commercial information, such as confidential formulas or marketing strategies, that companies keep confidential to gain a competitive advantage (Varadarajan, 2017). The "right of publicity" safeguards the interests of celebrities in relation to the usage of their images and identities (Lemley, M. A., 2018).

i. Utilitarian theory

Unsurprisingly, utilitarianism has been the primary logical theory employed to justify the shield of utilitarian works, which encompass technological creations (Landes, 2003). The utilitarian theory of intellectual property (IP) is a philosophical perspective that justifies the existence and purpose of IP laws based on their overall societal benefits. According to this theory, the primary goal of IP protection is to maximize the greater good or utility for society as a whole (Paul, 2021).

The utilitarian theory argues that by granting exclusive rights to creators and inventors, IP laws incentivize innovation and creative production. These exclusive rights, such as patents, copyrights, and trademarks, allow creators to profit from their creations and provide economic incentives for further innovation (Landes, 2003). This, in turn, leads to advancements in technology, culture, and overall societal progress.

Furthermore, the utilitarian viewpoint extends its applicability to other types of intellectual property. Utilitarian considerations are often pertinent to the protection of utilitarian works under trade secret law (Fishman, et al, 2018). Similarly, trademark law, which primarily focuses on preventing consumer confusion in the marketplace, lends itself well to economic analysis due to its close ties to ensuring efficient market transactions (Menell, 1999).

ii. Labor/Natural theory

John Locke provided a rationale for property ownership by asserting that individuals possess a fundamental right to own their own bodies,

labor, and the products resulting from their labor (Lustig, 2017). Accordingly, when a person combines their labor with land or other tangible assets, they acquire a natural entitlement to those properties (Ciro, 2005). This principle, which extends to one's own intellectual creations, has been instrumental in establishing the framework for recognizing intellectual property rights, particularly in the realms of patents and copyright (Mostert, 1987).

Munzer proposes a revised version of the labor theory to address the limitations of the original theory. In order to make the molds of the labor theory more realistic, the laborer's property rights should be accompanied by larger obligations stemming from the civil rights of non-laborers (Munzer, 1990). For instance, non-laborers have rights to basic necessities of life, and these rights should be considered in the context of the labor theory. This highlights the unrealistic assumption of no waste in the labor theory. To address this, he suggests the introduction of a power of transfer, allowing for the allocation and exchange of resources. This enables a more practical understanding of resource allocation and distribution (Du. B, 2018).

ii. The Incentive Theory

The incentive theory of intellectual property is rooted in the idea that providing legal defense for intellectual acts as a motivating factor for the creation of additional intellectual creations, leading to benefits for society as a whole. According to this theory, granting property rights to intellectual works is crucial in promoting the creation of valuable intellectual products. Copyright, patent, and trade secret protections are considered vital mechanisms that offer the necessary incentives for generating an optimal output of intellectual contributions (Sulok, S. K. 2016). By incentivizing creators, society gains access to a diverse and valuable range of intellectual works, resulting in overall societal benefit.

By offering these property rights and incentives, the incentive theory posits that society benefits from a greater output of intellectual creations, fostering innovation, economic growth, and

cultural development. It encourages a diverse and valuable range of intellectual contributions that can enhance various aspects of society, from technological advancements to artistic expressions and scientific discoveries.

iii. Personality/Spiritual theory

The personality theory posits that providing a property right in a creation is essential for a creator to exercise full control over their spirit and individuality (Uszkai, 2017). The writings of Hegel, in particular, emphasize the importance of community in influencing individual freedom. However, Drahos' understanding of Hegel's perspective on property suggests that intellectual property rights could have negative implications for the community (Drahos, 1996). When creators are granted exclusive rights to their intellectual works, such as through copyright or moral rights, they gain the capability to exercise control over the utilization and attribution of their creations (Chang, 2023). This acknowledgment of the creator's personality and individuality plays a crucial role in upholding their dignity and autonomy. It enables creators to establish a meaningful connection with their work and guarantees that it is treated in alignment with their intentions and values. Unlike purely utilitarian or economic theories of intellectual property (IP), the personality theory emphasizes the significance of the creator's distinct contribution and the inherent value of their personal expression. This theory strives to safeguard and advance the creator's identity, integrity, and relationship with their creations, recognizing these elements as fundamental aspects of IPRs (Borghi, 2018).

iv. Economic Theory

Intellectual property rights are closely intertwined with markets as they serve to create markets for information. Economic theory plays a crucial role in providing reason for the existence of intellectual property, although it encompasses various perspectives and approaches. In the context of intellectual property, the underlying economic theory indicates that market disaster ascends from the significant preliminary costs of creation and the

borderline costs associated with distributing intellectual products (Van, 2014).

A critique of this theory questions whether property rights are the only means to incentivize creation. Creators often do not hold ownership of the property rights, and even if incentives are offered, there remains uncertainty regarding the amount of compensation required to ensure an adequate incentive (Ciro, 2005).

Legal Framework for Intellectual property

Legal factors are indeed a crucial component of the theoretical framework for IP protection and international trade agreements. The legal dimensions provide the necessary structure and guidelines for establishing and enforcing intellectual property rights at the international level. Here are some key points regarding legal factors:

International Treaties and Agreements

International treaties and agreements have important role in establishing the legal frameworks for intellectual property protection and facilitating international trade. Numerous international treaties and conventions cover a wide range of IP protection topics, including industrial designs, plant varieties, patents, trademarks, copyrights, and more. The World Intellectual Property Organization (WIPO), a United Nations organization that fosters IP cooperation and development, is in charge of overseeing several of these treaties such as Paris Convention for the Protection of Industrial Property (1967), Berne Convention for the Protection of Literary and Artistic Works (1971), Patent Cooperation Treaty (PCT) (1970), Madrid System for the International Registration of Marks (1989), Hague System for the International Registration of Industrial Designs (1999), WIPO Performances and Phonograms Treaty (WPPT) (1996), WIPO Copyright Treaty (WCT) (1996) and many more, among these agreements, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994 holds particular importance as a significant multilateral agreement administered by the World Trade Organization (WTO). TRIPS sets out minimum standards for the protection and enforcement of

intellectual property rights among member countries of the WTO. It incorporates the principal clauses of the current IP treaties governed by WIPO and establishes basic requirements for the safeguarding and enforcement of intellectual property rights in all technological domains. In addition, it creates a dispute resolution process for WTO members to settle trade disputes involving intellectual property rights (World Trade Organization (WTO), 1995).

TRIPS Agreement

The TRIPS Agreement, 1994 encompasses a comprehensive set of obligations and principles that pertain to the protection of intellectual property. The Marrakesh Agreement Establishing the World Trade Organization (also referred to as the "WTO Agreement") contains this agreement, also known as the TRIPS Agreement, as Annex 1C. On April 15, 1994, the WTO Agreement was signed, and on January 1, 1995, it came into force. It is noteworthy that the provisions of Article II.2 of the WTO Agreement specifies that all Members of the WTO are bound by the terms of the TRIPS Agreement. With the Protocol of December 6, 2005, which went into effect on January 23, 2017, the TRIPS Agreement was amended. With this amendment, a new Article 31bis, an Appendix, and an Annex were added. These amendments create the legal foundation that allows WTO members to grant special, mandatory licenses solely for the manufacture and export of reasonably priced generic medications to other members who are unable to produce enough of these drugs domestically to meet their population's needs (WTO, 1994).

TRIPS sets forth standards for the safeguarding of these rights, along with regulations for their enforcement, resolution of disputes, and trade-related aspects. By establishing these standards and rules, the TRIPS Agreement aims to promote a consistent and balanced approach to intellectual property protection, ensuring that intellectual creations and innovations are adequately safeguarded and that trade involving intellectual property is conducted in a fair and transparent manner. The TRIPS Agreement plays a critical role as an influential international

trade pact that establishes values for the protection and enforcement of intellectual property. Member countries are obligated to provide protection for different types of IP, such as patents, trademarks, copyrights, and trade secrets, in accordance with the provisions outlined in the agreement. Additionally, the TRIPS Agreement addresses important aspects related to the enforcement of IP rights, mechanisms for resolving disputes, and the transfer of technology (World Trade Organization, 1995)

The primary impartial of the TRIPS Agreement is to accomplish a delicate balance between fostering innovation, facilitating skill transfer, and simultaneously ensuring contact to knowledge and vital goods. It has had a significant impact on global IP protection by establishing a common framework and encouraging member countries to strengthen their IP laws and enforcement mechanisms (Podszun, .et.al., 2016).

National Intellectual Property Laws:

National intellectual property laws are the domestic laws that each WTO member must enact and implement to comply with the TRIPS obligations. These laws may vary in some aspects, such as the scope of protection, the duration of protection, the exceptions and limitations, and the enforcement mechanisms. However, they must meet the minimum standards set by TRIPS and respect the principles of non-discrimination, transparency and due process.

Member nations are allowed some latitude in drafting or changing their intellectual property laws and regulations under Article 8 of the TRIPS. Two important factors highlight this flexibility. First of all, members have the authority to enact policies that are thought to be required to safeguard nutrition and public health. This acknowledges that public welfare is a top priority, allowing countries to enact policies in line with the TRIPS Agreement while preserving the health and dietary requirements of their citizens. Second, members are free to pass laws that advance the public interest in areas that are essential to their socioeconomic

and technological advancement. This clause acknowledges the various developmental priorities of nations and permits the adoption of policies that are tailored to their particular situation as long as they stay within the general framework of the TRIPS Agreement. Article 4 of the Agreement states that members shall treat other members' nationals in the same manner as they treat their own nationals with regard to the preservation of intellectual property rights.

Enforcement Mechanisms

The TRIPS provisions specify the remedies, including temporary measures, that must be available for dealing with infringements of any addressed intellectual property rights (IPRs), as well as the civil as well as administrative procedures that must be followed. Tough enforcement standards are enforced, especially for copyright piracy and trademark counterfeiting (Osei-Tutu, 2017). Members are required to set up border controls so that goods bearing counterfeit trademarks and pirated copyrights can be stopped from entering the country. Cases involving intentional commercial copyright piracy and trademark counterfeiting are also subject to mandatory criminal procedures (Omolo, (2018). Terms like "making available" are used in a variety of enforcement remedies, indicating that while members must set up efficient procedures and deterrent remedies, right holders usually have the responsibility of starting enforcement procedures. This general strategy is consistent with the TRIPS Preamble's assertion that intellectual property rights are private rights. Several clauses mandate that members grant judicial or other appropriate authorities the authority to take particular actions, while these authorities are still free to apply the rules in a particular case (see Articles 43.1, 44.1, 45, 46, 47, 48.1; 50.1, 2, 3, and 7; 53, 56, and 59, TRIPS).

In the world of international trade, intellectual property rights violations affect a wide range of industries and product categories. This includes clothing, food, medicine, automobile and aircraft spare parts, software, and textiles. The possible ramifications surpass the principal goal of protecting intellectual property assets, since

violations often affect a number of important aspects, such as job opportunities, tax and excise revenue losses, consumer safety and health, equal competition, against criminal activity, and the environment for foreign direct investment (FDI) (Sell, 2017).

Dispute Settlement

Disputes may arise concerning the interpretation or application of IP requirements in international trade agreements. Legal frameworks often include mechanisms for dispute settlement, which allow countries to seek resolution through negotiation, mediation, or adjudication (World Trade Organization [WTO], 2021). The dispute reimbursement procedures provide a means for addressing conflicts and ensuring compliance with agreed-upon rules.

The TRIPS Agreement incorporates provisions for the reimbursement of disagreements through the Dispute Settlement Understanding (DSU) of the World Trade Organization (Hillman, 2016). The TRIPS Agreement's dispute resolution process follows the WTO's established guidelines and processes, which relies on the Dispute Settlement Understanding (DSU). Among the crucial phases of this process are:

- i. **Consultations:** Within 60 days of the alleged violation of TRIPS obligations, the disputing parties must begin the process of seeking resolution through consultations. The complaining party may ask for the creation of a panel if the consultation process isn't successful after sixty days (WTO, DSU, Article 4, 1995).
- ii. **Panel:** A panel, consisting of between three and five impartial experts, examines the arguments and supporting documentation put forth by each party and then produces a report with conclusions and suggestions. All WTO members must receive the panel's report in six months of the panel's creation, or nine months if the case is more complicated (WTO, DSU, Article 6, 1995).
- iii. **Appellate Body:** Within 60 days of the

report's distribution, any party may file an appeal on legal or legal interpretation-related grounds. The three members of the Appellate Body, a permanent panel of seven people appointed to four-year terms, hear the appeal. Unless a majority of WTO members determine differently, the Appellate Body's report must be distributed in 90 days of the hearing and is open to acceptance by the Dispute Settlement Body (DSB) (WTO, DSU, Article 8 & 20, 1995).

- iv. **Implementation:** Through negotiation or arbitration, the DSB's suggestions and rulings have to be complied with by the party found in violation within a reasonable timeframe. The opposing parties must negotiate a compromise on reimbursement such as lower tariffs or expanded market access, in the event that the ruling is not implemented. If no agreement is reached, the winning party may ask the DSB for permission to halt comparable obligations or concessions to the losing party, like enforcing trade restrictions or increasing tariffs (WTO, DSU, Article 21, 1995)

Conclusion and Recommendations

This study demonstrates the significant role played by international agreements in promoting intellectual property protection, with particular emphasis on the crucial role of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement in safeguarding intellectual property at the international level and its implementation within different states. The TRIPS Agreement, drafted with flexibility in mind compared to the Paris Convention and the Berne Convention, plays a vital role in facilitating international trade and ensuring effective IP protection.

Embrace International Agreements and Ensure Compliance: It is crucial for countries to endorse and adhere to international agreements that establish standards for intellectual property (IP) protection, including the TRIPS Agreement overseen by the World Trade Organization

(WTO). By aligning their domestic laws with these agreements, countries can establish a robust framework for IP protection.

Strengthen Domestic Legislation: Develop and implement extensive intellectual property (IP) legislation that adheres to global norms, ensuring the protection and enforcement of various forms of creative assets such as patents, copyrights, trademarks, trade secrets, and other intellectual properties. They should provide clear guidelines on the scope of protection, rights of IP owners, enforcement mechanisms, and remedies for infringement.

Strengthen Enforcement Mechanisms: Enhance enforcement mechanisms to combat IP infringement. This includes increasing penalties for infringement, facilitating collaboration between law enforcement agencies and IP offices, conducting regular inspections to detect and prevent counterfeiting and piracy, and ensuring efficient border control measures.

Promote Public Awareness and Education: Educate the public, businesses, and IP stakeholders about the importance of IP protection and its role in fostering innovation, creativity, and economic growth. Promote awareness campaigns, training programs, and workshops to increase knowledge about IP rights, enforcement, and respect for IP.

Foster International Cooperation: Enhance international cooperation and information sharing among countries to combat cross-border IP infringements. Collaborate with other nations, IP offices, and law enforcement agencies to exchange best practices, coordinate investigations, and support joint efforts to address IP-related challenges.

Strengthen Border Measures: Implement effective border measures to prevent the importation and exportation of counterfeit and pirated goods. This includes customs cooperation, enhanced information sharing, the use of advanced technologies for product identification, and cooperation with rights holders to facilitate the detection and seizure of infringing goods.

References

Abdulqawi A. Yusuf.(2008).TRIPS: ackground, Principles and General Provisions, in INTELLECTUAL PROPERTY AND INTERNATIONAL TRADE: THE TRIPS AGREEMENT 3, 9 (Carlos M. Correa & Abdulqawi A. Yusuf eds., 2d ed.

Anderson, A. M., & Razavi, B. (2009). The globalization of intellectual property rights: TRIPS, BITS, and the search for uniform protection. *Ga. J. Int'l & Comp. L.*, 38, 265.

Barizah, N. (2017). The development of ASEAN's intellectual property rights law; From Trips compliance to harmonization. *Indon. L. Rev.*, 7, 95.

Blakeney, M. (2008). *Intellectual Property and Development: Theory and Practice*. Edward Elgar Publishing.

Borghi, M. (2018). Copyright, property, and personality. Note on Hegel. Fink, C & Patrick Reichen miller, P.R., (2005). Tightening TRIPS: The Intellectual Property Provisions of Recent US Free Trade Agreements. <http://siteresources.worldbank.org/INTRANETTRADE/Resources/Pubs/TradeNote20.pdf>.

Chang, C. C. (2023). The Clash of Theories: Semiotic Democracy and Personality Theory in Intellectual Property Law. *Law & World*, 26, 14.

Ciro, T (2005). The Scarcity of Intellectual Property. *The Journal of International Logistics and Trade*, 1-21.

Correa, C. M. (2007). *Intellectual Property Rights, the WTO and Developing Countries: The TRIPS Agreement and Policy Options*. Zed Books.

Deorsola, A. B., Leal, M. C. M. R., Cavalcante, M. D., Schmidt, I. J., & Braga, E. J. (2017). Intellectual property and trademark legal framework in BRICS countries: A comparative study. *World Patent Information*, 49, 1-9.

Dianne Daley, *Intellectual Property in the EPA:*

- Broad Scope, Huge Impact Part 111, JAMAICA OBSERVER, July 23, 2008, available at <http://www.bilaterals.org/article.php?id=12767>.
- Drahos P (1996). *A Philosophy of Intellectual Property*. Ashgate Aldershot, 74.
- Drahos, P., & Braithwaite, J. (2017). Intellectual property, corporate strategy, globalisation: TRIPS in context. In *Intellectual Property* (pp. 233-262). Routledge.
- DU BOIS M. (2018). Justificatory Theories for Intellectual Property Viewed through the Constitutional Prism. DOI <http://dx.doi.org/10.17159/1727-3781/2018/v21i0a2004>.
- Dutfield, G., & Suthersanen, U. (Eds.). (2013). *Global Intellectual Property Law*. Edward Elgar Publishing.
- Falvey, R., et al. (2004). Intellectual Property Rights and Economic Growth (U. Nottingham, Internationalization of Economic Policy, Research Paper No. 2004/12). Retrieved from <http://papers.ssrn.com/sol3/papers.cfm?abstractid=715982>
- Fishman, J. P., & Varadarajan, D. (2018). Similar secrets. *U. Pa. L. Rev.*, 167, 1051.
- Hamilton, M. A. (1996). The TRIPS Agreement: Imperialistic, outdated, and overprotective. *Vand. J. Transnat'l L.*, 29, 613.
- Hillman, J. (2016). Dispute settlement mechanism. *Trans-Pacific Partnership: An Assessment*, 104, 213.
- Landes, W. M., & Posner, R. A. (2003). *The Economic Structure of Intellectual Property Law*. Harvard University Press
- Lemley, M. A. (2018). Privacy, property, and publicity. *Mich. L. Rev.*, 117, 1153.
- Lustig, B. A. (2017). Natural law, property, and justice: the general justification of property in John Locke. In Thomas Aquinas (pp. 289-319).
- Manap, N. A., Shapiee, R. B., Tehrani, P., & Shariff, A. A. B. M. (2016). Protecting R&D inventions through intellectual property rights. *Journal of Intellectual Property Rights*.
- Maskus, K. E. (2000). *Intellectual Property Rights in the Global Economy*. Institute for International Economics.
- May, C. (2008). *Global Intellectual Property Law: The TRIPS Agreement*. Wiley.
- Menell, P. S. (1999). Intellectual property: General theories. *Encyclopedia of Law and Economics*, 2, 129-188.
- Munzer SR (1990). *A Theory of Property*. Cambridge University Press New York 254-291.
- Netanel, N. W. (2018). *Copyright: What Everyone Needs to Know®*. Oxford University Press.
- O'Connor, S. M. (2019). Distinguishing Different Kinds of Property in Patents and Copyrights. *Geo. Mason L. Rev.*, 27, 205.
- Omolo, J. A. (2018). Criminal procedures and penalties for infringement of intellectual property rights in Kenya. *Journal of Intellectual Property Law & Practice*, 13(8), 649-656.
- Osei-Tutu, J. J. (2017). IP Enforcement under the TPP: Civil and Administrative Procedures and Remedies, Provisional Measures in TPP (Articles, 18.71-18.76). *SMU Sci. & Tech. L. Rev.*, 20, 221.
- Otten, A. (2015). The TRIPS negotiations: An overview. *The Making of the TRIPS Agreement*, 55-78.
- PAUL, R. (2021). Intellectual Property Rights: A Utilitarian Perspective. Available at SSRN 3842429.
- Podszun, R., & Franz, B. (2016). Regulatory Innovation and the Institutional Design of the TRIPS Agreement. *TRIPS plus 20: From Trade Rules to Market Principles*, 279-311
- Rizkia, N. D., & Fardiansyah, H. (2022). Patent Protection for The National Interest.

- Ruth L. Okediji, Public Welfare and the Role of the WTO: Reconsidering the TRIPS Agreement, 17 EMORY INT'L L. REV. 819, 914–15 (2003).
- Sell, K. S. (2017). Industry strategies for intellectual property and trade: The quest for TRIPS, and post-TRIPS strategies. In Intellectual Property (pp. 203-232). Routledge.
- Sulok, S. K. (2016). Incentive Theory Justification for Intellectual Property Rights In Usa: Judicial Trend.
- Uszkai, R. (2017). „Intellectual Property has no Personality”. Annals of the University of Bucharest. Philosophy Series, 66(2), 181-205.
- Van der Walt. (2014). The Modest Systemic Status of Property Rights. Journal of Law, Property & Society, 15-106.
- Varadarajan, D. (2017). The trade secret-contract interface. Iowa L. Rev., 103, 1543.
- World Trade Organization (WTO) - Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994).
- World Trade Organization, TRIPS Agreement (1994).
- World Trade Organization. (1995). WTO Dispute Settlement Understanding 1995. Annex 2, Understanding on Rules and Procedures Governing The Settlement Of Disputes. Retrieved from https://www.wto.org/english/docs_e/legal_e/28-dsu.pdf
- World Trade Organization. (2021). Understanding the WTO: Dispute settlement.